

REMARKS

Claims 1-34 are pending in this application. Claims 10-27 have been finally withdrawn from consideration. Applicant has proposed to amend the claims as indicated above to correct a grammatical error in claim 34. Applicant respectfully requests entry of the proposed amendment because the amendment places the case in condition for allowance or in better condition for appeal.

Rejection – 35 U.S.C. § 103

The Office has rejected claims 1-9 and 28-34 under 35 U.S.C. § 103 as being unpatentable over Ladha et al. (U.S. Patent No. 4,000,065) in view of Potter (U.S. Patent No. 6,036,854) and Potter et al. (U.S. Patent No. 5,997,652), alternatively in view of Miller et al. (U.S. Patent No. 5,374,356) for the reasons listed on pages 2-4 of the Office Action. Applicant respectfully traverses this rejection.

Independent claims 1, 7, and 28 currently recite a system for producing and treating potato process water comprising (1) means for producing the potato process water and (2) means for treating such water using at least one ultrafilter (UF) and at least reverse osmosis (RO) membrane. Independent claim 34 currently recites a system comprising means for making a potato mash, means for drying and flaking the potato mash, means for collecting the resulting potato process water, means for removing at least one suspended potato particulate in the potato process water, and means for removing at least one dissolved potato particulate in the potato process water. The Office, however, has not substantiated that the proposed combination of the prior art teaches or suggests the limitations in these claims.

The Office recognizes that Ladha et al. do not disclose any means for producing potato process water as recited in claims 1, 7, and 28, or the means for making a potato mash, means for drying and flaking the potato mash, and the means for collecting the resulting potato process water as recited in claim 34. The Office argues that Potter, Potter et al., and Miller et al. (collectively, the "secondary references") all disclose treatment of waste water from a food processing plant, such as a potato processing plant. The Office recognizes, however, that the secondary references do not utilize both ultrafiltration and reverse osmosis.

The Office concludes that it would have been obvious for the skilled artisan to modify the teachings of the secondary references by adding the ultrafilter (or reverse osmosis) as taught by Ladha et al. in order to produce water of a higher quality, i.e., more purified water. As well, the Office concludes that it would have been obvious to use the system of Ladha et al. to process potato waste water since the secondary references teach similar systems for processing potato waste water.

As to the first proposed combination of references, Applicant respectfully disagrees. In essence, the Office proposes modifying the secondary references with the teachings of Ladha et al. (the primary reference). However, it is a basic principle of patent law that the teachings of a secondary reference(s) are used to modify the disclosure of the primary reference(s), not the other way around. Thus, the Office proposes a modification "opposite" of what the patent law mandates.

As to the second proposed combination of references, Applicant also respectfully disagrees that the Office has substantiated a *prima facie* case of obviousness. *Even if* the Office the references can be combined in the proposed manner (a fact which Applicant does not presently concede), the combined references still do not teach or suggest all the limitations in the

claims. The Office concedes that Ladha et al. do not teach "means for producing" potato wastewater. And the Office argues that the secondary references all teach methods and apparatus for treating potato waste water. But at no time does the Office argue or allege that the secondary references teach means for producing potato waste water. Thus, the Office's proposed combination of references can not teach or suggest the claimed producing means since the Office has not shown that either Ladha et al. or any secondary reference discloses this limitation. IN particular, the Office has not shown that any of the references teach (1) means for making a potato mash, (2) means for drying and flaking the potato mash, (3) or means for collecting the resulting potato process water, all of which are recited in claim 34.

Thus, the Office has not substantiated that the skilled artisan would have considered claims 1-9 and 28-34 obvious over the combined teachings of the cited references as suggested by the Office. Accordingly, Applicant requests withdrawal of this rejection.

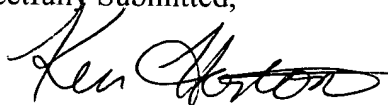
CONCLUSION

For the above reasons, as well as those of record, Applicant respectfully requests the Office to enter the proposed Amendment, withdraw the pending grounds of rejection, and allow the pending claims.

If there is any fee due in connection with the filing of this Amendment, including a fee for any extension of time not accounted for above, please charge the fee to our Deposit Account No. 50-0843.

Respectfully Submitted,

By



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Reg. No. 39,481

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